

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA                  )  
  )  
Plaintiff,                                  )  
  )  
v.    ) Civil No. 2:02-cv-3698 (WHY)  
  )  
ROBERT L. GAVETT                          )  
  )  
Defendant.                                 )

UNITED STATES' PRETRIAL MEMORANDUM

\_\_\_\_ The United States of America, by and through its undersigned attorneys, in accordance with the Court's order and Local Rule 16.1, submits its pretrial memorandum to the Court.

1. Nature of Action and Basis of Jurisdiction

The United States filed a complaint on June 11, 2002 to reduce to judgment federal income tax liabilities assessed against Robert L. Gavett for tax years 1980 through 1987, to foreclose federal tax liens, and to sell the mobile home owned by defendant Robert L. Gavett and held in the name of the Christian Management Company. The Court has jurisdiction over this action under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402.

2. Statement of Facts

On March 14, 1994, a delegate of the Secretary of the Treasury of the United States assessed taxes against Gavett, for unpaid Form 1040 individual income taxes for

the years 1980 through 1987. On March 30, 1998, a notice of Federal Tax Lien against Robert Gavett was filed in Lehigh County, Pennsylvania.

On July 30, 1989, Gavett and his now-deceased wife, Rosemarie Gavett, purchased a double-wide mobile home. The mobile home purchase agreement listed the buyers as "Robert L. & Rosemarie Gavett for Christian Management Company." On October 11, 1989, the Pennsylvania Department of Motor Vehicles issued a certificate of title for the mobile home which listed the owner as "Christian Management Company." Christian Management Company was listed as having the same address as the Gavett's. On August 24, 1998, an amended notice of federal tax lien was filed in Lehigh County, Pennsylvania against Robert Gavett a/k/a Christian Management Company. Gavett and his wife lived in the mobile home until her death, and defendant continues to reside there.

### 3. Theory of Liability

Gavett has failed to pay federal income taxes assessed against him for tax years 1980 through 1987. He has not alleged any facts to rebut the presumption that the taxes assessed and the amounts assessed were in any way improper or incorrect; and he does not deny that he owes the taxes. The United States contends that the Christian Management Company is a fictitious nominee or alter ego of defendant, and that defendant is the true beneficial owner of the mobile home.

4        Damages

The United States is entitled to a judgment in its favor and against defendant in the amount of \$325,694.55 as of August 30, 2004, plus statutory interest accruing until fully paid. The United States is also entitled to an order for the sale of the mobile home, with the proceeds of the sale to be distributed to the United States.

5.        Names and Addresses of Witnesses

Robert L. Gavett  
1115 Cypress Court  
Breinigsville, PA

Testimony about the tax liabilities and the ownership of the mobile home

Eugene Batdorf (or designee)  
Internal Revenue Service  
1001 Liberty Avenue  
Pittsburgh, PA 15222

Testimony about the Service's procedures, the income taxes assessed, and ownership of the mobile home ("damages" witness)

Any other witnesses called by any other party.

6.        Schedule of Exhibits

See attached list.

8.        Special Comments

None.

9. Estimated Number of Days for Trial

\_\_\_\_\_ One day.

Dated: August 19, 2004.

Respectfully submitted,

PATRICK L. MEEHAN  
United States Attorney

/s/ Pat Genis  
PAT S. GENIS  
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ROBERT L. GAVETT                          )  
  )  
Defendant.                                 )

CERTIFICATE OF SERVICE

IT IS CERTIFIED that UNITED STATES' PRETRIAL MEMORANDUM was served on August 19, 2004, by mailing a copy first class mail, postage prepaid, addressed as follows:

Robert Laurence Gavett  
1115 Cypress Court  
Breiningsville, PA 18031

/s/ Pat Genis  
PAT S. GENIS

ATTACHMENT TO PRETRIAL MEMORANDUM  
UNITED STATES' EXHIBIT LIST

<u>Exhibit No.</u>	<u>Name of Exhibit</u>
1	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1980.
2	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1981.
3	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1982.
4	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1983.
5	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1984.
6	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1985.
7	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1986.
8	Form 4340, Certificate of Assessments and Payments, for Robert L. Gavett, for the tax year ended December 31, 1987.
9	Notice of Federal Tax Lien, filed on March 30, 1998 with the Recorder of Deeds of Lehigh County, Pennsylvania, against Robert Gavett.
10	Amended Notice of Federal Tax Lien, filed on August 24, 1998 with the Recorder of Deeds of Lehigh County, Pennsylvania, against Robert Gavett a/k/a Christian Management Company.

11 Green Acres Mobile Home Sales Purchase  
Agreement, dated July 30, 1989, which lists Robert L.  
and Rosemarie Gavett, Steinmetz Road, Bell Meade,  
NJ 08502 as purchasers of a mobile home "for  
Christian Management Company." The mobile home  
is described as a Colony, serial number SN00455AB.

12 Death Certificate of Rose Marie Gavett, who died on  
December 14, 1995.

13 Certificate of Title for a Vehicle, dated October 11,  
1989 issued to Christian Management Company,  
Steinmetz Road, Bell Meade, NJ 08502 for a mobile  
home. The mobile home is described as a Colony,  
serial number SN00455AB.